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TO: Peter J. Vrettakos Fax: 571-273-4775
United States Patent and Trademark Office

RE: Atty. Docket No.: VM6117 (ALL8057US)
Serial Number 10/027,343
Entitled: RECONFIGURABLE SURGICAL APPARATUS

ENCLOSING: Interview Summary Record;
Response under 37 C.F.R. 1.133(b)

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NO. 073 P. 2

Appl. No. 10/027,343
Interview Summary Record
Reply to Office Communication dated March 11, 2005

APR 06 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re:

Applicant:	Tony Looper et al.	Atty. Docket No.:	VM6117 (ALL8057-US)
Serial No.:	10/027,343	Examiner:	Peter J. Vrettakos
Filing Date:	December 19, 2001	Art Unit:	3739
Entitled:	RECONFIGURATION SURGICAL APPARATUS		

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

CERTIFICATE OF FACSIMILE TRANSMISSION UNDER 37 C.F.R. §1.133(b)

Date of Deposit: April 6, 2005

I hereby certify that this correspondence, being 4 pages (including transmittal sheet), is being sent via facsimile to the attention of Examiner Peter J. Vrettakos, at 571-273-4775 c/o The United States Patent and Trademark Office, P.O. Box 1450, Alexandria, Virginia 22313-1450

Christine Cameron
Christine Cameron

RESPONSE UNDER 37 C.F.R. §1.133(b)

INTERVIEW SUMMARY RECORD

Dear Sir:

This communication is in response to an Interview Summary Record submitted by the Examiner concerning the above-referenced case. This Interview Summary Record was mailed on March 11, 2005.

Initially, the Examiner has failed to include Attorney Michael Gallagher as Applicants' co-representative during the interview which took place on December 9, 2004.

Secondly, the Interview Summary is not signed by the Examiner who conducted the interview as required under MPEP 713.04. It appears as if a Mr. Roy Gibson has signed for Examiner Peter J. Vrettakos. MPEP

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713.04 states: "If additional correspondence from the Examiner is not likely before an allowance or if other circumstances dictate, the Interview Summary Form should be mailed promptly after the telephonic, electronic mail, or video conference interview rather than with the next official action." As noted above, the Interview Summary Record was not mailed until more than four months after the interview.

All claims presently before the Examiner, claims 43 – 84 were discussed. Agreement was not reached with respect to the claims. Claims 43, 54, 55, 59, 60, 62, 63, 67, 68, 72, 73, 74, 80 and 81 were finally rejected under 35 U.S.C. §103(a) as being unpatentable under Freitas (U.S. Patent No. 5,486,185) and claims 46 – 48, 63 – 65, 69 – 70, 75 – 76, and 82 – 84 were finally rejected under 35 U.S.C. as being unpatentable under Freitas (U.S. Patent No. 5,486,185) in view of Chien (GB2227512A).

An appeal was filed January 7, 2005, in the above-captioned case. This was to appeal the Office Action of November 2, 2004. The appeal brief (in triplicate) was filed on March 1, 2005.

During the interview, it was discussed that the present invention is directed to a reconfigurable surgical apparatus particularly suitable for endoscopic surgery. An overview of the apparatus is seen in FIG. 1 of the present application. A surgical instrument assembly (110) includes a prime mover (130) that can be positioned within a hollow manipulation shaft (120). The prime mover (130) or such other elements can be configured for both linear and rotational motion in certain arrangements of the surgical instrument (110). It was pointed out to the Examiner during the interview that Freitas et al ('185) discloses and illustrates in FIGS. 1 – 3, a probe (104) having an instrument (20) attached to one end, which is inserted into the patient. The device utilizes a movable probe sleeve (28) which surrounds an immovable probe (52) which is attached to an instrument head (20). The outer probe sleeve (28) moves partially over the instrument head (20) so that camming surfaces (40, 42) are compressed by the leading edge of the moving probe (28) thus pinching the jaws of the instrument head (20). The device is not capable and does not claim the ability of imparting rotational force to the tool (20), as the button-like

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instrument flange (106) and T-shape coupling (122), as seen in FIG. 8, connect the probe (52) and tool (20) to allow for free rotation of the tool on the probe (52). This is a major shortcoming of the Freitas reference.

Chien is directed to a disposable dental explorer with a frangible handle. The disposable dental explorer has a plastic handle (20) coupled to a stainless steel needle. The handle is provided with a neck portion having a reduced cross-sectional area (3). After use, the handle (2) is broken off at the frangible point (3) to prevent reuse of the explorer. All frangible portions are open to the environment.

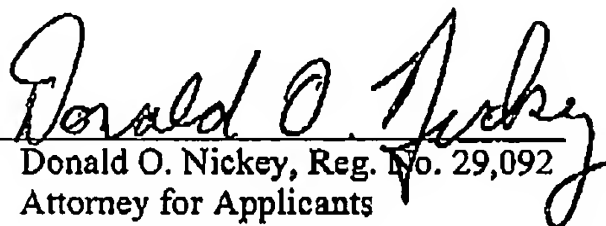
Applicants' Representative tried to convince the Examiner that any combination of these two references would fail to make out the disposable instrument presented in the claims before him. The Examiner refused to reconsider the matter and we are now at Appeal.

The Examiner is simply wrong in that the Freitas reference is not capable "of transferring rotational force" between the prime mover and the tool.

Respectfully submitted,

Dated: April 6, 2005

By:



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